



San Diego County SHERIFF'S DEPARTMENT

NOTICE OF PROPOSED DISCIPLINARY ACTION

2007-042.1

TO: William B. Kolender, Sheriff		DATE: July 31, 2007	
It is recommended that the following disciplinary action be administered to the below named employee:			
EMPLOYEE'S NAME:	Spoelstra, Steven	TITLE:	Deputy Sheriff
DEPARTMENT POLICY AND / OR PROCEDURE SECTION(S) VIOLATED:	2.4 - Unbecoming Conduct	2.46 - Truthfulness	
	2.30 - Failure to Meet Standards		
	2.41 - Departmental Reports		
RECOMMENDED DISCIPLINE:	Termination		
SECOND LEVEL SUPERVISOR:	Sean P. Gerrity, Lieutenant	DATE:	07/31/2007
LIST PRIOR FORMAL DISCIPLINE WITHIN LAST FIVE YEARS WITH DATE	None		
I have been advised of the above charges and recommended discipline:			
EMPLOYEE'S SIGNATURE:	<i>Steven Spoelstra</i>	DATE:	07-31-2007
2 nd LEVEL SUPERVISOR SIGNATURE:	<i>Sean P. Gerrity</i>	DATE:	7-31-07
3 rd LEVEL SUPERVISOR SIGNATURE:	<i>Don Crist</i>	DATE:	8-3-07
COMMENTS:			
REVIEWED BY INTERNAL AFFAIRS:	<i>W. Kerner</i>	DATE:	08-07-07
4 th LEVEL SUPERVISOR SIGNATURE:	Kim Quaco, Commander <i>Kim Quaco</i>	DATE:	12-7-07
COMMENTS:			
ADDITIONAL REVIEW:	Earl Wentworth, Assistant Sheriff <i>Earl Wentworth</i>	DATE:	12/13/07
ADDITIONAL REVIEW:	William D. Gore, Undersheriff <i>William D. Gore</i>	DATE:	
ADDITIONAL REVIEW:	William B. Kolender, Sheriff <i>William B. Kolender</i>	DATE:	1-7-08
INTERNAL AFFAIRS SECTION			
<input type="checkbox"/> WRITTEN REPRIMAND BY:		DATE:	
<input checked="" type="checkbox"/> NOTICE OF INTENT AND CHARGES:	<i>Steven Spoelstra</i>	DATE:	08-23-07
<input checked="" type="checkbox"/> ORDER SERVED:	Sergeant E. Stubbs	DATE:	01-10-2008
<input checked="" type="checkbox"/> CIVIL SERVICE NOTIFIED:	P. Lorenz, AdminSecII	DATE:	01-10-2008
<input type="checkbox"/> PAYROLL NOTIFIED:		DATE:	
FINAL ACTION TAKEN:	TERMINATION	DATE:	01-07-2008

06-04-08 Upheld per Civil Service Commission

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I.A. FILES
TO 565



County of San Diego

COMMISSIONERS

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CIVIL SERVICE COMMISSION

COUNTY ADMINISTRATION CENTER
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EXECUTIVE OFFICER

PATT ZAMARY

June 5, 2008

Donovan J. Jacobs
Attorney at Law
1347 Tavern Road, #18 PmB 201
Alpine, CA 91901

Dear Mr. Jacobs:


RULE VII APPEAL RE: Steven Spoelstra (2008-01)

Enclosed is a copy of the Findings, Conclusions and Recommendations as well as the Decision of Commissioner Bailey that was approved by the Civil Service Commission at its regular meeting on June 4, 2008.

If you have any questions or concerns regarding this matter, please do not hesitate to contact this office.

Very truly yours,

CIVIL SERVICE COMMISSION
PATT ZAMARY, Executive Officer

By 
SELINDA HURTADO-MILLER
Commission Secretary

Enclosures

cc: Steven Spoelstra, Appellant
William B. Kolender, Sheriff
Sanford Toyen, Esq.

JUNE 4, 2008

ITEM NO. 2

CIVIL SERVICE COMMISSION

COUNTY OF SAN DIEGO

In the Matter of the Appeal of)
Steven Spoelstra from an Order) FINDINGS, CONCLUSIONS
of Termination and Charges from) AND RECOMMENDATIONS
the Sheriff's Department)

The matter of the appeal of Steven Spoelstra (2008-01), ("Employee"), from a written Order of Termination and Charges terminating him from his class and position of Deputy Sheriff (Class No. 5746) in the Sheriff's Department, ("Department"), was presented to the Civil Service Commission. The Commission appointed Commissioner Cheryl Fisher, then one of its members, to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. This matter was subsequently reassigned to Commissioner W. Dale Bailey. Thereafter, the matter was duly noticed and came on for hearing on April 29, 2008.

The following were present at the hearing: W. Dale Bailey, Hearing Officer; William A. Adams, Esq., assisting the Hearing Officer as Legal Advisor; Steven Spoelstra, Appellant, on his own behalf and as represented by Donovan Jacobs, Esq.; and Sanford Toyen, Esq., assisted by Sergeant K, representing the Appointing Authority.

The official file of the proceedings shows that the Order of Termination and Charges was dated December 13, 2007, signed by William B. Kolender, Sheriff, and that the causes of discipline were:

1 CAUSE I

2 You are guilty of Conduct Unbecoming an Officer, as set forth under Section
3 7.2(m) of Rule VII of the Rules of the Civil Service Commission as it relates to
4 Sheriff's Policy and Procedure **Section 2.4 - Unbecoming Conduct, Section 2.41**
5 **Departmental Reports, Section 2.51 - Arrest, Search, and Seizure** in that: You
6 intentionally, knowingly, and dishonestly submitted a false arrest report. In your
7 report you stated the suspect, [REDACTED] was contacted in the front yard with his
cousin, as they were yelling at each other. During your interview with Internal
Affairs, you admitted these were untruthful statements because [REDACTED] was
contacted inside his residence.

8 Additionally, you submitted a probable cause declaration for [REDACTED]'s arrest, which
9 you signed under penalty of perjury, stating you contacted suspect [REDACTED] who
10 was fighting with family in front of the house, which was also an unfactual and
untruthful statement.

11 Furthermore, you wrongfully arrested and booked [REDACTED] for 647(f) P.C. "Drunk in
12 Public" when in fact you made contact with [REDACTED] inside a private residence and
13 arrested him there. Your false arrest brought the department into disrepute and
14 reflected negatively on you as a deputy Sheriff, patrol training officer, and corporal
within the department.

15 CAUSE II

16 You are guilty of Inefficiency, as set forth under Section 7.2(b) of Rule VII of the
17 Rules of the Civil Service Commission as it relates to Sheriff's Policy and
18 Procedure **Section 2.30 - Failure to Meet Standards** in that: You submitted two
19 arrest reports and a probable cause declaration regarding the same incident, which
20 were neither complete or accurate. You failed to take the appropriate action during
21 the arrest of [REDACTED] for 647(f) P.C. (Drunk in Public) by contacting and arresting
22 him inside his residence. You attempted to hide this fact by falsifying your arrest
report and probable cause declaration to reflect [REDACTED]'s arrest occurred in his front
yard. By not submitting a complete and accurate arrest report and probable cause
declaration you failed to maintain the highest standards of efficiency in carrying out
the Mission, Functions, and Objectives of this Department. Moreover, your false
arrest exposed the Department to unwarranted civil liability.

23 CAUSE III

24 You are guilty of dishonesty as set forth under Section 7.2(d) of Rule VII of the
25 Rules of the Civil Service Commission as it relates to Sheriff's Policy and
26 Procedure **Section 2.46 - Truthfulness**, in that: You admitted during your Internal
27 Affairs interview that you made untruthful statements in your arrest report
28 regarding the location of [REDACTED]'s arrest. You wrote and submitted your arrest
report to reflect [REDACTED] was in front of his house, or in public, to meet the elements
of 647(f) P.C. which states: "Who is found in a public place". When confronted by
your beat partner, who knew the circumstances surrounding the arrest, you
responded, "Well I know, that's why you're not in it (report)."

1 During both your interview with the Internal Affairs investigators, and pre-
2 Disciplinary conference with Lieutenant [G], you indicated you believed [REDACTED]
3 entered the residence as you arrived on scene. Although this could be a critical
4 component in an arrest for drunk in public, you did not write this in either arrest
5 report, the probable cause declaration, or was it corroborated by any witnesses
6 during the Internal Affairs Investigation.

7 CAUSE IV

8 You are guilty of Acts which are Incompatible with and/or Inimical to the Public
9 Service as set forth under Section 7.2(s) of Rule VII of the Rules of the Civil
10 Service Commission of the County of San Diego. You are guilty of acts, which are
11 incompatible with the **San Diego County Sheriff's Department Executive Order**
12 and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts
13 inimical to the public service is that set forth under Causes I through III above.

14 SYNOPSIS

15 Employee was a Deputy Sheriff - Patrol. Evidence at the
16 Hearing established that Employee falsified two reports to
17 support a public drunkenness arrest. In mitigation, Employee
18 had no prior discipline, had several years of overall
19 performance rated as "exceeds expectations," and was known to
20 volunteer for community service. Additionally, the evidence
21 established that the arrest was necessary for public safety.
22 On the other hand, Employee's misconduct caused considerable
23 disruption, confusion, and consumption of Department resources.
24 It also violated the public trust, which is one of the most
25 important requirements of law enforcement. Therefore, it is
26 recommended that his Termination be affirmed.

27 FINDINGS

28 1. Employee was a Deputy Sheriff - Patrol, who was
assigned to the Valley Center Substation at the time of the
Order of Termination and Charges. At the time of his
termination, he had been employed by the Sheriff's Department

1 for eighteen years. No record of prior discipline was
2 presented at the hearing, and Employee represented that there
3 was none. Employee's Performance Evaluations for five years
4 preceding the incident contained overall ratings of "Exceeds
5 Expectations." [App. Exh. D] He was a Training Officer, which
6 is designated in the Department by the unofficial rank of
7 Corporal. At the Commission hearing, Employee presented a
8 packet containing commendations and correspondence from
9 citizens complimentary of his performance. [App. Exh. E]
10 Additionally, testimony indicated that he volunteered for
11 community activities, such as graffiti clean-up with his son.
12 Testimony from his supervisors and co-deputies established that
13 he was well liked and respected.

14 2. At issue in this appeal is Employee's handling and
15 reporting of an incident to which he was dispatched as the
16 result of a 911 call. At the Commission hearing, the following
17 evidence and testimony was presented:

18 3. On January 19, 2007, Employee responded to a call
19 regarding a family disturbance at a residence on the La Jolla
20 Indian Reservation. At the Commission hearing, Employee
21 testified that the disturbance related to a dispute at a
22 residence between an unmarried couple with two young children.
23 He and other deputies were familiar with this residence from
24 prior service calls. According to Employee, upon arrival he
25 encountered two adult females and two young children. The
26 younger adult female told him that her boyfriend (the father of
27 the children) was drinking and taking drugs, and that he had
28 been violent on prior occasions. She stated that a restraining

1 order against him had recently expired. While Employee was
2 there, the boyfriend, ■ ■ arrived and became verbally
3 aggressive with the younger adult female. Employee agreed to
4 transport her and her one-year old child to the Los Coyotes
5 Reservation and, because he only had one child car seat, leave
6 her three year old child under the care of the older adult
7 female, ■ ■ who was reportedly the child's Grandmother or
8 Great Grandmother.

9 4. Several hours later, near 4:00 A.M. on January 20,
10 2007, Employee again responded to a call at the home, which was
11 dispatched as "415A DISTURBANCE . . . RP [reporting party] JUST
12 RECV 1021 FROM ■ ■ [sic].... ADV IS OUT OF CONTROL, 647F . .
13 . 664 TO GRAB KNIVES AND YELLING AT FAMILY MEMBERS." [Dept.
14 Exh. 5] 415A is a Penal Code section pertaining to fighting
15 and 647F is a Penal Code section pertaining to being drunk in
16 public. Violations of these sections are misdemeanors, which
17 generally require that deputies witness the violation in order
18 to make an arrest.

19 5. Testimony at the hearing established that the home
20 was in a rural location. Upon Employee's arrival, the area
21 surrounding the home was dark with very little ambient
22 lighting. There was no street lighting or exterior lighting,
23 except for a porch light.

24 6. Testimony further established Employee was the first
25 Deputy to arrive. Deputy R was in a separate patrol car
26 immediately behind Employee. Employee and Deputy R entered the
27 home. ■ ■ three year old child was sleeping in the living
28 room. They encountered ■ ■ in a bedroom standing on his bed.

1 The room was in disarray. At about that time, Deputy A
2 arrived. Employee restrained ■ ■ with handcuffs and placed
3 him in the back of his patrol vehicle. Subsequently, Deputy A
4 found a knife in ■ ■ bedroom. Prior to transporting ■ ■
5 Employee gave his business card to ■ ■ He wrote "647F" and
6 the case number on the card. Present at the home at the time
7 of the arrest were, in addition to ■ ■ approximately four
8 other family members.

9 7. Employee documented the incident, in pertinent
10 part, by reporting that:

11 "Origin:

12 On 01-20-2007 at about 0415 hours I received a radio
13 call about a disturbance at the ■ ■ house on ■ ■
14 ■ ■ La Jolla Reservation.

15 Enroute (sic) I was told two cousins were fighting in
16 the front yard of the house. One cousin, ■ ■
was drunk.

17 Investigation:

18 I arrived and contacted ■ ■ and ■ ■ in the
19 front yard. ■ ■ was also cussing at other
20 relatives, grandmother ■ ■ who was standing on
the porch.

21 I saw ■ ■ was walking with a stumbling gait and
22 was slurring his speech. His eyes were bloodshot and
23 his breath smelled of an alcoholic beverage. ■ ■
was a danger to himself and others.

24 I arrested ■ ■ for being drunk in public and
25 placed him in the backseat of my patrol vehicle. No
26 force was used.

27 I contacted ■ ■ and ■ ■ and took their
28 statements.

1 I transported ■ ■ to the Valley Center Substation
2 for processing. He was later transported to the
3 Vista Jail and charged with being drunk in public."
[Dept. Exh. 1, pp. 2-3]

4 8. The next day, Deputy R saw Employee's report in an
5 in-box at the Substation. He reviewed it and became concerned
6 about inaccuracies in the report. At the Commission hearing,
7 Deputy R testified that contrary to the report, ■ ■ was
8 inside the home when they arrived and that he did not appear to
9 be a danger to himself or to others. He was further concerned
10 that the report failed to mention his or the other deputy's
11 presence.

12 9. Deputy R approached Deputy B, a Training Officer,
13 regarding his concerns. Deputy B agreed to convey Deputy R's
14 concerns to Employee. Deputy B later informed Deputy R that he
15 had brought the matter to Employee's attention, and that
16 Employee was not opposed to changing the report.

17 10. A day or two after Deputy B and Employee met,
18 Employee contacted Deputy R and they discussed the report in a
19 Substation break room. Deputy R testified that he told
20 Employee that if he was asked about the incident, he would have
21 to give a version different from the version contained in the
22 report. Deputy R testified that Employee replied: "That's why
23 I didn't put you in the report."

24 11. In response to the concerns about the report,
25 Employee revised the report to omit the statement that he saw
26 fighting outside of the house. Instead, he stated that upon
27 his arrival, he saw ■ ■ retreat into the house. The revised
28 portion of the report, in full, stated:

1 "Investigation:

2 I arrived with Deputy [R] (4943) and contacted [REDACTED]
3 [REDACTED] and [REDACTED] in the front yard. I heard [REDACTED] [REDACTED]
4 yelling inside the house. [REDACTED] told me [REDACTED] 's
5 child was in the house. I entered the house and saw
6 [REDACTED] [REDACTED] in a back bedroom. Broken glass was on the
7 floor and [REDACTED] [REDACTED] was cussing and threatening [REDACTED] [REDACTED]
8 and [REDACTED] [REDACTED]

9 In the living room of the house [REDACTED] 's three year
10 old son, [REDACTED], was sleeping on a mat.

11 I saw [REDACTED] [REDACTED] was walking with a stumbling gait and
12 was slurring his speech. His eyes were bloodshot and
13 his breath smelled of an alcoholic beverage - [REDACTED] [REDACTED]
14 was a danger to himself, and his family.

15 I arrested [REDACTED] for being drunk in public and
16 placed him in the backseat of my patrol vehicle. [REDACTED]
17 [REDACTED] made the spontaneous statement, "My woman and
18 daughter have left me and I am hurting, I needed to
19 drink the vodka" - No force was used in the arrest.

20 I again contacted [REDACTED] [REDACTED] and [REDACTED] [REDACTED] and took their
21 statements.

22 I transported [REDACTED] [REDACTED] to the Valley Center Substation
23 for processing. He was later transported to the Vista
24 Jail and charged with being drunk in public." [Dept.
25 Exh. 2, p.3]

26 12. Sometime after the second report was submitted, the
27 Department initiated an Internal Affairs investigation. The
28 investigation was conducted by Sergeant K. He interviewed
29 Department witnesses, family witnesses, and Indian Health
30 Services employees. [Dept. Exh. 4] Some of the information
31 obtained during the investigation was relevant to the hearing
32 as follows:

33 a) During the investigation, all of the family
34 members denied the presence of a child at the residence.

1 Deputy R also indicated that he was unaware of a child in the
2 house. Sergeant K testified in the hearing that during the
3 investigation, he believed that Employee was lying about a
4 child being in the house. However, the presence of the child
5 was established at the hearing by the independent recollections
6 of Deputies A and Employee, and the facts of Employee's earlier
7 call to the residence. [Dept. Exh. 4, pp. 16-17]

8 b) During the investigation, all of the family
9 members denied any hostile actions or words by ■ ■ However,
10 testimony at the hearing established at least some level of
11 verbal combativeness by ■ ■ as well as verbal aggression by
12 ■ ■

13 c) During the investigation, all of the family
14 members denied that ■ ■ was in the front yard when Employee
15 arrived, or that he was fighting with ■ ■ prior to Employee's
16 arrival. In contrast, Employee told Sgt. K that upon arriving,
17 he was met by ■ ■ in the front yard; and that after he had
18 arrested ■ ■ ■ ■. told him that he did not want to press
19 charges because he was not injured by ■ ■ despite an exchange
20 of punches. [Id. at p.29]

21 d) The investigation confirmed that ■ ■ had an
22 extensive history of law enforcement calls due to family
23 disturbances and intoxicated behavior. [Id. at pp. 46-52]

24 e) In the investigation, Employee claimed that he
25 didn't initially include the other deputies' names because they
26 were not necessary witnesses and because the charge was
27 relatively minor and would not be referred for prosecution to
28 the District Attorney. [Id. at p. 43] At the Commission

1 hearing, Deputy R testified that a deputy's presence did not
2 require that he be identified in a report, unless the deputy
3 was a relevant witness.

4 f) In the investigation, Employee admitted that he
5 didn't observe ■ ■ "stumbling gait" and "blood shot eyes"
6 prior to handcuffing him but he claimed that it was just
7 generic language that he used in all 647(f) reports. [Id. at
8 p.33]

9 g) Sergeant K summarized several discrepancies in
10 the reports and witness versions accounts of the events leading
11 up to the arrest. [Id. at pp. 4-6] He sustained a finding that
12 Employee made a false public drunkenness arrest of ■ ■ by
13 arresting him in his own home [Id. at p. 1] He also sustained
14 a finding that Employee made false reports of the arrest. [Id.
15 at p. 3]

16 13. A Skelly conference was conducted by the Lieutenant G
17 of Employee's substation. At the Commission hearing, it was
18 clear that the Lieutenant held Employee in high regard prior to
19 the hearing. Nevertheless, after reviewing the investigation
20 report and Employee's response, the Lieutenant agreed with the
21 recommendation of termination. The Lieutenant was particularly
22 influenced by Employee's purported response to Deputy R that he
23 left his name out because he knew he wouldn't agree with it.

24 14. At the hearing, there was testimony by Employee and
25 other Department personnel that despite his overall performance
26 "exceed[ing] expectations," his report writing was below
27 average, which was due in part to inaccuracies resulting from
28 carelessness and haste. For example, he had to be admonished

1 not to "cut and paste," from previous reports. Employee
2 testified that some of the errors at issue in this appeal
3 resulted from such conduct rather than intentional dishonesty.

4 15. Employee also testified that at the time of the
5 events at issue, he had worked approximately eighty-five hours
6 of overtime. He testified that his exhaustion from such
7 overtime contributed to the errors in his memory and the
8 reports.

9 CONCLUSIONS

10 A. The primary issue is whether Employee intentionally
11 falsified his documentation of the arrest to support the "in
12 public" element of Penal Code §647(f) - Drunk in Public.
13 Employee argues that the report inaccuracies were limited to
14 the first of his two reports, which was due to a combination of
15 negligent "cutting and pasting" and failure to distinguish what
16 he was told by others from what he actually witnessed. He
17 further argues that the witnesses against him are not credible.
18 He asserts, however, that the second report was substantially
19 accurate, in that he saw ■ ■ retreat from outside of the
20 house to the inside through the front door of the house. The
21 Department argues that witnesses established that ■ was
22 never outside of the house when Employee arrived, and that
23 Employee never observed him "stumbling" prior to handcuffing
24 him.

25 B. The versions of events given by witnesses interviewed
26 by the Department in its investigation were not reliable.
27 Deputy R's recollection was inaccurate in key respects. He was
28 unaware of the presence of the child. He was unaware that a

1 knife was found. Additionally, his perception of the incident
2 may have been markedly different from Employee's perception.
3 He arrived in a separate patrol car, behind Employee, thus
4 making it plausible that he did not witness everything
5 witnessed by Employee. He did not have the information
6 possessed by Employee from his earlier response to the house.
7 Such information could plausibly account for some of the
8 differences between Deputy R's perception of events and
9 Employee's perception.

10 C. The family members were biased and unreliable
11 witnesses. They had a shared interest in maintaining custody
12 of the children, which might be placed at risk under the
13 circumstances. Their denial of the presence of the child was
14 contradicted by Deputy A as well as Employee. Their denial of
15 violence or hostility was contradicted by the content of the
16 dispatch record, as well as prior service calls, and Indian
17 Health Services records.

18 D. The foregoing notwithstanding, it is impossible to
19 reconcile the differences between Employee's two reports.
20 Additionally, the inaccuracies in the first report, which were
21 purportedly corrected by the second report, weren't mere
22 omissions, slight variations, or "cut and paste" errors. Nor
23 were these inaccuracies of the type to result from exhaustion
24 due to overtime. Rather, the portion of the first report about
25 ■ ■ and ■■■■■ fighting in the front yard was a detailed
26 fiction reported as though witnessed first hand. The admitted
27 inaccuracies of the first report undermine Employee's
28 credibility regarding the second report, and give added

1 credibility to the otherwise less reliable accounts of Deputy R
2 and the family members. Accordingly, the Department proved
3 that both reports drafted by Employee contained false and
4 inaccurate information.

5 E. The next issue is whether termination is an
6 appropriate level discipline. The Department has consistently
7 maintained that honesty is the most important standard among
8 sworn personnel due to their special position of public trust.
9 It appears from a totality of the evidence that Employee had a
10 cavalier attitude regarding accuracy in matters, which he
11 believed, were of little consequence. His testimony that the
12 reports were not destined for prosecution by the District
13 Attorney's office was telling of how he might distinguish such
14 matters as requiring less accuracy.

15 F. Employee is Guilty of Cause I, Conduct Unbecoming an
16 Officer. He knowingly filed two false reports. In so doing,
17 his conduct was directly contrary to three out of six of the
18 Core Values of the Sheriff's Department - honesty, trust, and
19 integrity. *[Dept. Exh., Mission, Vision, Values, and Goals]*

20 G. Employee is guilty of Cause II, Inefficiency. The
21 Department established that accuracy in reports is an important
22 deputy function and performance standard. *[Dept. Exh. 7, Policy*
23 *2.41]* Employee's false and incomplete reports failed to meet
24 Department standards for report writing. By filing inaccurate
25 reports, Employee caused other deputies to unnecessarily expend
26 their time and effort to remedy Employee's inaccurate reports.
27 Additionally, Employee was required expend additional time and
28 effort in rewriting the report. Overall, his conduct caused a

1 great deal of disruption, confusion, and consumption of
2 Department and County resources.

3 H. Employee is guilty of Cause III, Dishonesty. He
4 knowingly filed two false reports. The Department has
5 consistently maintained that honesty is the most important
6 quality it seeks from its deputies and the one quality upon
7 which it will not compromise.

8 I. Employee is guilty of Cause IV, Acts which are
9 Incompatible with and/or Inimical to the Public Service.
10 According to the Department's Mission, Vision, Values, and
11 Goals [Dept. Exh. 7], Honesty, Trust, and Integrity constitute
12 three out of six of the Core Values of Sheriff's Deputies, as
13 public servants. Employee's conduct was directly contrary to
14 these principles.

15 J. A balancing of all considerations, though resulting
16 in a difficult decision, supports the Department's termination
17 of Employee. On one hand, he has an exceptional performance
18 record, no prior discipline, and a reputation for community
19 volunteerism. Additionally, the evidence indicated that his
20 inaccuracies were not for personal gain or advantage, and that
21 his ultimate goal was the safety of the family members,
22 especially the child. On the other hand, his disregard for
23 accuracy and truthfulness has several important negative
24 consequences. First, he has raised himself above the
25 Department's policies and procedures, as well as the law, by
26 reserving for himself the decision of when those laws, policies
27 or procedures need be followed. Second, he has violated the
28 public trust and made his reports and testimony unreliable. In

1 the confines of this case, despite the lack of credibility of
2 the family members, his own testimony has been made equally
3 unreliable by his admitted inaccuracies. Third, his conduct
4 has caused considerable disruption, confusion, and consumption
5 of Department and County resources. These circumstances
6 demonstrate the importance of truthfulness even in matters that
7 appear, at the time, immaterial or of little consequence.

8 K. The Department proved by a preponderance of evidence
9 the charges contained in Causes I - IV of the Order of
10 Termination and Charges.

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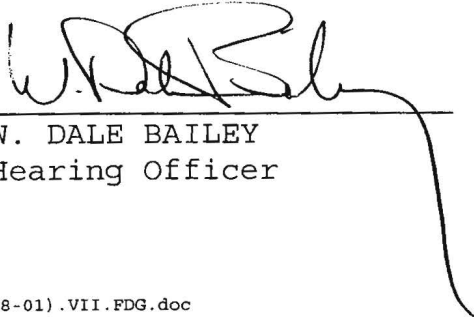
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1 RECOMMENDATIONS

2 Based on the findings and conclusions set forth above, I
3 hereby recommend the following decision:

- 4 1. That the Order of Termination be affirmed; and
5 2. That the proposed decision shall become effective
6 upon the date of approval by the Civil Service Commission.

7
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9 Dated: June 4, 2008


10 W. DALE BAILEY
11 Hearing Officer

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1 CIVIL SERVICE COMMISSION

2 COUNTY OF SAN DIEGO

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4 In the Matter of the Appeal)
5 of Steven Spoelstra from an) DECISION
6 Order of Termination and)
Charges from the Sheriff's)
Department)

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8 The matter of the appeal of Steven Spoelstra (2008-01),
9 from a written Order of Termination and Charges terminating him
10 from his class and position of Deputy Sheriff (Class No. 5746)
11 in the Sheriff's Department was presented to the Civil Service
12 Commission. The Commission appointed Cheryl Fisher, then one
13 of its members, to hear the appeal and submit findings,
14 conclusions, and recommendations to the Civil Service
15 Commission. This matter was subsequently reassigned to
16 Commissioner W. Dale Bailey. Thereafter, the matter was duly
17 noticed and came on for hearing on April 29, 2008.

18 The Hearing Officer has reported back to the Commission
19 his Findings, Conclusions and Recommendations; and a Proposed
20 Decision, a copy of which is attached hereto and incorporated
21 herein, and the Commission hereby adopts and approves the
22 Findings, Conclusions, and Proposed Decision that the Hearing
23 Officer has submitted.

24 ACCORDINGLY, IT IS ORDERED:

- 25 1. That the Order of Termination be affirmed; and
26 2. That the proposed decision shall become effective
27 upon the date of approval by the Civil Service Commission.
28

3. Any exhibit introduced in this proceeding may be returned to the party to whom it belongs at any time after the effective date of this Decision and the expiration of the time provided for judicial review which is governed by Code of Civil Procedure Section 1094.6 as more fully set forth below under the paragraph entitled "Notice." The party seeking return of the exhibits shall file with this Commission a written request for the return of the exhibits accompanied by proof of mailing a copy thereof to the other party, who may have ten (10) days from the date of mailing to object to the return of said exhibit(s). If no objection is filed, the Executive Officer of the Commission may return the exhibit(s) to the party requesting it.

4. Upon approval of this Decision, a copy thereof, together with the Findings, Conclusions and Proposed Decision incorporated by reference, be served on the parties and their representatives.

NOTICE

The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by Civil Service Rule VII, Section 7.13(f). Any petition or other papers seeking judicial review must be filed in the appropriate court not later than the ninetieth (90th) day following the date on which this decision becomes final. However, if within ten (10) days after this decision becomes final, a request for the record of the proceedings is filed, the time within which such petition may be filed in court is

1 extended to not later than the thirtieth (30th) day following
2 the date on which the record is personally delivered or mailed
3 to the party, or his attorney of record. A written request for
4 the preparation of the record of proceedings shall be filed
5 with the Executive officer of the Civil Service Commission of
6 San Diego County, 1600 Pacific Highway, San Diego, California
7 92101. A deposit sufficient to cover the estimated cost of
8 preparation of such record shall be filed with the written
9 request for the record of the proceedings.

10 Approved by the Civil Service Commission on the 4th day of
11 June, 2008.

12
13 AYES: Bailey, Casillas, Krauel, Newman

14 NOES: None

15 ABSENT: None

16 ABSTENTIONS: None
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27
28

DONOVAN J. JACOBS

ATTORNEY AT LAW

2295 NEEDHAM ROAD, NO. 41 · EL CAJON · CALIFORNIA · 92020-2051 · (619) 445-8650 (619) 722-6009

January 14, 2008

County of San Diego
Civil Service Commission
1600 Pacific Highway, Room 458
San Diego, CA 92101

HAND DELIVERED

County of San Diego
Sheriff's Department
William B. Kolender, Sheriff
9621 Ridgehaven Court
San Diego, CA

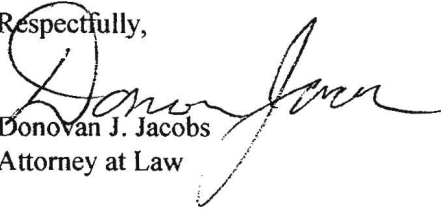
RE: Deputy Steve Spoelstra
Appeal/Answer of Termination

Dear Commission:

Consider this letter an appeal and an answer of the termination of Deputy Steve Spoelstra from the Sheriff's Department. He is appealing all aspects of the case including the factual findings as well as the level of discipline. He denies all findings and allegations of misconduct and contends all aspects of the discipline imposed is improper.

Please contact me so scheduling of the appeal hearing may be made.

Respectfully,


Donovan J. Jacobs
Attorney at Law

DJJ/

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

RECEIVED

JAN 14 2008

**CIVIL SERVICE
COMMISSION**

January 10, 2008
IA# 2007-042.1

TO: Civil Service Commission

FROM: William Kemery, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – STEVEN SPOELSTRA

The Order of Termination and Charges dated 12-13-2007 filed against Steven Spoelstra has been received by the Civil Service Commission on: _____

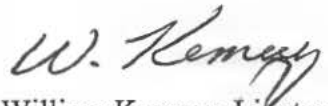
Date

Commission Response:

- [☒] The above individual **HAS** appealed the Order of Termination and Charges.
[☐] The above individual **HAS NOT** appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.


William Kemery, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment

2008 JAN 16 PM 1 41

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

January 10, 2008
IA# 2007-042.1

TO: Civil Service Commission

FROM: William Kemery, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – STEVEN SPOELSTRA

The Order of Termination and Charges dated 12-13-2007 filed against Steven Spoelstra has been received by the Civil Service Commission on: _____


Date

Commission Response:

- ☐ The above individual **HAS** appealed the Order of Termination and Charges.
- ☐ The above individual **HAS NOT** appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.


William Kemery, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment



RECEIPT OF MATERIALS

EMPLOYEE: STEVEN SPOELSTRA #1772

Case # 2007-042.1

[illegible]



RECEIPT OF MATERIALS

EMPLOYEE: STEVEN SPOELSTRA #1772

Case # 2007-042.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Steven Spoelstra dated 07-31-2007	<i>Steven Spoelstra</i> 08-23-2007	<i>[Signature]</i> 08-23-07
Notice of Intent to Terminate and Charges to Steven Spoelstra dated 08-09-2007		
Discipline Recommendation/Rationale to Sheriff Kolender from Lieutenant Gerrity dated 07-31-2007		
Investigative Reports by Sergeant L. Kusler dated 05-25-2007 and attachments		
Skelly Conference Letter to Steven Spoelstra		
Order Not to Disclose Materials to Steven Spoelstra		
Declaration/Acknowledgement of Personal Service		
Three (3) CD-R's		
One (1) audio cassette tape		



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William B. Kolender, Sheriff

William D. Gore, Undersheriff

December 13, 2007

Steven Spoelstra
[REDACTED]
[REDACTED]

Dear Deputy Spoelstra:

ORDER OF TERMINATION AND CHARGES, CASE #2007-042.1

I hereby order that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes:

CAUSE I

You are guilty of Conduct Unbecoming an Officer, as set forth under Section 7.2 (m) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.4 - Unbecoming Conduct, Section 2.41 - Departmental Reports, Section 2.51 - Arrest, Search, and Seizure** in that: You intentionally, knowingly, and dishonestly submitted a false arrest report. In your report you stated the suspect, [REDACTED], was contacted in the front yard with his cousin, as they were yelling at each other. During your interview with Internal Affairs, you admitted these were untruthful statements because [REDACTED] was contacted inside his residence.

Additionally, you submitted a probable cause declaration for [REDACTED] arrest, which you signed under penalty of perjury, stating you contacted suspect, [REDACTED] who was fighting with family in front of the house, which was also an unfactual and untruthful statement.

Furthermore, you wrongfully arrested and booked [REDACTED] for 647(f) P.C. "Drunk in Public" when in fact you made contact with [REDACTED] inside a private residence and arrested him there. Your false arrest brought the department into disrepute and reflected negatively on you as a deputy Sheriff, patrol training officer, and corporal within the department.

"Keeping the Peace Since 1850"



CAUSE II

You are guilty of Inefficiency, as set forth under Section 7.2 (b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.30 – Failure to Meet Standards** in that: You submitted two arrest reports and a probable cause declaration regarding the same incident, which were neither complete or accurate. You failed to take the appropriate action during the arrest of [REDACTED] for 647(f) P.C. (Drunk in Public) by contacting and arresting him inside his residence. You attempted to hide this fact by falsifying your arrest report and probable cause declaration to reflect [REDACTED] arrest occurred in his front yard. By not submitting a complete and accurate arrest report and probable cause declaration you failed to maintain the highest standards of efficiency in carrying out the Mission, Functions, and Objectives of this Department. Moreover, your false arrest exposed the Department to unwarranted civil liability.

CAUSE III

You are guilty of dishonesty as set forth under Section 7.2(d) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.46 – Truthfulness**, in that: You admitted during your Internal Affairs interview that you made untruthful statements in your arrest report regarding the location of [REDACTED] arrest. You wrote and submitted your arrest report to reflect [REDACTED] was in front of his house, or in public, to meet the elements of 647(f) P.C. which states: "*Who is found in a public place*". When confronted by your beat partner, who knew the circumstances surrounding the arrest, you responded, "Well I know, that's why you're not in it (report)."

During both your interview with the Internal Affairs investigators, and pre-Disciplinary conference with Lieutenant Gerrity, you indicated you believed [REDACTED] entered the residence as you arrived on scene. Although this could be a critical component in an arrest for drunk in public, you did not write this in either arrest report, the probable cause declaration, or was it corroborated by any witnesses during the Internal Affairs Investigation.

RELEASED FROM
I.A. FILES
TO: 515 1722

CAUSE IV

You are guilty of Acts which are Incompatible with and/or Inimical to the Public Service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is that set forth under Causes I through III above.

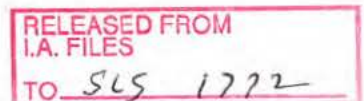
Your attention is directed to Sections 904.1, 904.2, 909, 909.1(k), and 910(k) (1) of the Charter of the County of San Diego and Rule VII of the Civil Service Rules. If you wish to appeal this order to the Civil Service Commission of the County of San Diego, you must file such an appeal and an answer in writing with the Commission within ten (10) calendar days after this order is presented to you. Such an appeal and answer must be in writing and delivered to the Civil Service Commission at its offices at 1600 Pacific Highway, Room 458, San Diego, California 92101, within such ten (10) day calendar period. An appeal is not valid unless it is actually received by the Commission within such a ten (10) day period. A copy of such appeal and answer shall also be served, either personally or by mail, by the employee on the undersigned within the same ten (10) day calendar period.

Sincerely,



William B. Kolender, Sheriff

WBK:llk



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

- ☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**
- ☐ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

- ☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **ORDER OF SUSPENSION AND CHARGES**
- ☒ **ORDER OF TERMINATION AND CHARGES**

- ☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

STEVEN SPOELSTRA personally at J.F. DUFFY ADMIN. CTR on
January 10, 2008.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10TH day of January, 2008, at San Diego, California.

Eric Hubbs, Sgt.
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 10TH day of January, 2008.

SIGNED Steven I. Spoelstra

IA# 2007-042.1





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

December 7, 2007

TO: William B. Kolender, Sheriff

FROM: Glenn D. Revell, Commander
Court Services Bureau

VIA: Chain of Command

Skelly Conference for Deputy Steven Spoelstra #1772 – IA Case 2007-042.1

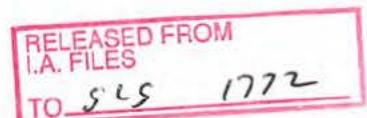
SYNOPSIS / COMMAND RECOMMENDATION

Deputy Spoelstra is a Deputy Sheriff assigned to the Valley Center/Pauma Substation. On January 20, 2007, Spoelstra arrested [REDACTED] for being drunk in public, and booked him into County Jail. It was later alleged that [REDACTED] had actually been well inside his private residence at the time of arrest, contrary to Spoelstra's report. An Internal Affairs investigation was launched, alleging that Deputy Spoelstra made an unlawful arrest, and that he was untruthful in his reporting of the arrest. The investigation sustained those allegations, along with policy violations related to unbecoming conduct, failure to meet standards, department reports, and truthfulness.

As a result of the sustained findings, Lieutenant Sean P. Gerrity, commander of the Valley Center/Pauma Substation, has recommended Deputy Spoelstra be terminated from employment with the San Diego County Sheriff's Department.

RESPONSE TO CHARGES AND PROPOSED DISCIPLINE

By mutual agreement, the Skelly Conference was scheduled for Friday October 10, 2007 at 1000 hours in the Central Investigations Conference Room at the Sheriff's Administration Center. Present were Deputy Spoelstra, his Attorney Donovan Jacobs, and myself as the hearing officer. I attempted to digitally record the conference. Due to an equipment malfunction our conversation was not recorded. I notified Attorney Jacobs of this failure and asked if he or his client would prefer to re-convene for the purpose of recording the information exchanged and I also offered to accept any additional written documentation he or Deputy Spoelstra would like to have me consider prior to rendering a decision. Deputy Spoelstra elected to provide me with additional written documentation.



Deputy Spoelstra presented the majority of the response to the charges and proposed discipline. He opened by explaining in detail his activity during the shift preceding the call that resulted in the arrest of [REDACTED].

After reviewing close to 600 pages of written information submitted by Deputy Spoelstra and reviewing my notes taken during the 90 minute Skelly Conference I have the following observations;

- Thoroughness of the case – Investigators from the Sheriff's Internal Affairs Unit and those presumably hired by Attorney Jacobs on Deputy Spoelstra's behalf more than adequately documented all facets of this case.
- Work performance – Deputy Spoelstra's work product for the 19 years he has served shows no other known demonstration of dishonesty. He has been repeatedly commended for his efforts. His recent Employee Performance Reports rate him "Exceeds Expectations" and "Fully Competent" overall.

The Skelly Conference was concluded at 1130 hours.

DISCUSSION

The facts of this case are not in dispute. Deputy Spoelstra made an arrest inside a private residence for 647f PC, despite one of the fundamental elements of the crime being that it occur in a public place, or place open to the public. Notwithstanding the legal and civil implications of this Constitutional infringement, the greater concern is that Spoelstra was untruthful in his written report. In spite of many favorable points offered by the appellant and Attorney Jacobs, neither directly addressed Deputy Spoelstra's untruthfulness. Each makes a case for differing perspectives and yet neither spoke directly to or rebutted one of the most damaging comments attributed to Deputy Spoelstra and included on page eleven of Lieutenant Gerrity's Pre-Disciplinary Conference document:

"Spoelstra contacted Ryan approximately a day or two after Ballard had talked to him about fixing the report. They went into the break room and Spoelstra inquired what he should do. Ryan responded, *I don't know what you need to do. I just know this isn't what happened and if somebody asks me about this report, whether it be the courts or whatever, you know, I can't say that this is what happened. This is not what happened there, Steven.*" Spoelstra responded **"Well I know, that's why you're not in it"** [Emphasis added]

This appears to be a clear admission of dishonesty. While reasonable people may differ with regard to the specifics of observations and details of any given incident, I am deeply troubled over Deputy Spoelstra's apparent lack of veracity. Sadly, I know of no means by which such a lack of character may be adequately rehabilitated.



In reaching a Skelly recommendation, I considered the following two questions:

1. Are the charges supported by facts?
2. Is the proposed level of discipline reasonable?

I am convinced to a preponderance of evidence that Deputy Spoelstra unlawfully arrested and booked [REDACTED], and that he wrote and submitted false documentation to give the appearance that the arrest had been lawful. I am at a complete loss to explain why an experienced deputy would take such action when other more prudent options were available to him. He clearly exacerbated an unfortunate incident.

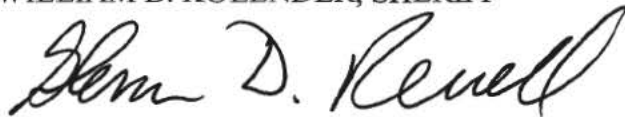
His behavior perpetuates the negative public perception of a persistent "code of silence" among our profession, and compromises our ability to trust his reports or testimony in the future.

The Sheriff's Department has historically been very clear and consistent in its intolerance of untruthfulness. Honesty is one of our core values, and there is no room for compromise. Deputy Spoelstra's untruthfulness warrants termination of employment.

RECOMMENDATIONS

I recommend the charges and proposed discipline be affirmed.

WILLIAM B. KOLENDER, SHERIFF



Glenn D. Revell, Commander
Court Services Bureau

GDR/gdr
Enclosure



Kim Quaco
Kim Quaco, Commander
Law Enforcement Services Bureau

☒ Approve ☐ Disapprove

Date: 12-7-07

Comments: _____

Earl Wentworth
Earl Wentworth, Assistant Sheriff
Law Enforcement Services Bureau

☒ Approve ☐ Disapprove

Date: 12/13/07

Comments: _____

William H. Gore
Bill Gore, Undersheriff

☒ Approve ☐ Disapprove

Date: 1/7/08

Comments: _____

RELEASED FROM
I.A. FILES
TO 565 1772

William B. Kolender
William B. Kolender, Sheriff

☒ Approve [] Disapprove

Date: 1-7-02

Comments: _____

RELEASED FROM
I.A. FILES
TO SLS 1772



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William B. Kolender, Sheriff

William D. Gore, Undersheriff

August 9, 2007

Steven Spoelstra
[REDACTED]
[REDACTED]

Dear Deputy Spoelstra:

NOTICE OF TERMINATION AND CHARGES, CASE #2007-042.1

Please take notice that it is my intention to recommend to the Sheriff that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes;

CAUSE I

You are guilty of Conduct Unbecoming an Officer, as set forth under Section 7.2 (m) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.4 - Unbecoming Conduct, Section 2.41 - Departmental Reports, Section 2.51 - Arrest, Search, and Seizure** in that: You intentionally, knowingly, and dishonestly submitted a false arrest report. In your report you stated the suspect, [REDACTED], was contacted in the front yard with his cousin, as they were yelling at each other. During your interview with Internal Affairs, you admitted these were untruthful statements because [REDACTED] was contacted inside his residence.

Additionally, you submitted a probable cause declaration for [REDACTED] arrest, which you signed under penalty of perjury, stating you contacted suspect, [REDACTED] who was fighting with family in front of the house, which was also an unfactual and untruthful statement.

Furthermore, you wrongfully arrested and booked [REDACTED] for 647(f) P.C. "Drunk in Public" when in fact you made contact with [REDACTED] inside a private residence and arrested him there. Your false arrest brought the department into disrepute and reflected negatively on you as a deputy Sheriff, patrol training officer, and corporal within the department.

"Keeping the Peace Since 1850"



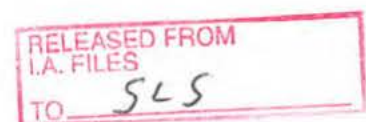
CAUSE II

You are guilty of Inefficiency, as set forth under Section 7.2 (b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.30 – Failure to Meet Standards** in that: You submitted two arrest reports and a probable cause declaration regarding the same incident, which were neither complete or accurate. You failed to take the appropriate action during the arrest of [REDACTED] for 647(f) P.C. (Drunk in Public) by contacting and arresting him inside his residence. You attempted to hide this fact by falsifying your arrest report and probable cause declaration to reflect [REDACTED] arrest occurred in his front yard. By not submitting a complete and accurate arrest report and probable cause declaration you failed to maintain the highest standards of efficiency in carrying out the Mission, Functions, and Objectives of this Department. Moreover, your false arrest exposed the Department to unwarranted civil liability.

CAUSE III

You are guilty of dishonesty as set forth under Section 7.2(d) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.46 – Truthfulness**, in that: You admitted during your Internal Affairs interview that you made untruthful statements in your arrest report regarding the location of [REDACTED] arrest. You wrote and submitted your arrest report to reflect [REDACTED] was in front of his house, or in public, to meet the elements of 647(f) P.C. which states: "*Who is found in a public place*". When confronted by your beat partner, who knew the circumstances surrounding the arrest, you responded, "Well I know, that's why you're not in it (report)."

During your interview with the Internal Affairs investigators, and pre-Disciplinary conference with Lieutenant Gerrity, you indicated you believed [REDACTED] entered the residence as you arrived on scene. Although this could be a critical component in an arrest for drunk in public, you did not write this in either arrest report, the probable cause declaration, nor was it corroborated by any witnesses during the Internal Affairs Investigation.



CAUSE IV

You are guilty of Acts which are Incompatible with and/or Inimical to the Public Service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is that set forth under Causes I through III above.

You have **five (5)** regular business days to request a Skelly Conference. You may respond either orally, in writing, or both, regarding the above proposed charges and discipline. Your response will be considered by the Sheriff before final action is initiated. Upon receipt of this notice you will be provided with all documents possessed by this department upon which this proposed action is based. If you have any questions of said documents, please contact Lieutenant Kemery of the Internal Affairs Unit.

You have until 4:30 p.m. on 08-30-07 to contact Internal Affairs at (858) 974-2065, if you wish to respond to the above charges and discipline. Internal Affairs will provide you the name of a Skelly Officer, whom you should contact without delay, as the conference must be held within ten (10) days, unless waived by mutual agreement. If there are extenuating circumstances precluding you from staying within this time limit, contact Internal Affairs immediately.

If you fail to respond, or if your response is unsatisfactory, an Order of Termination and Charges will be served upon you and the discipline initiated.

Sincerely,

WILLIAM B. KOLENDER, SHERIFF

Don Crist, Captain #1081

Don Crist, Captain
San Marcos Station

WBK:DC:lk



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

- ☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**
- ☒ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

- ☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**
- ☐ **ORDER OF SUSPENSION AND CHARGES**
- ☐ **ORDER OF TERMINATION AND CHARGES**

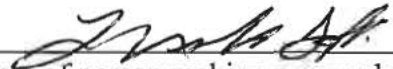
- ☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

of which a true copy is attached hereto, by delivering a copy thereof to

STEVEN SPOELSTRA personally at MAS MIRANAC - A RANG on
08-23-07.

I declare under penalty of perjury that the foregoing is true and correct.


Executed this 23rd day of AUGUST, 2007, at SAN DIEGO, California.


Signature of person making personal service

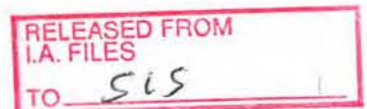
ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 23 day of AUGUST, 2007.

SIGNED 

IA# 2007-042.1



From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter

Case # 2007-042.1

As indicated on the "Notice of Intent" to discipline, which you are receiving, disciplinary action against you is being considered. If you wish to invoke your right to a pre-disciplinary due process hearing on this matter (*Skelly Conference*), you must make the request within five (5) regular business days. The Skelly Conference is a relatively informal hearing, not an adversarial evidentiary trial. The final date to request a hearing is indicated on your "Notice of Intent". Your request should be made by calling the Internal Affairs Unit at (858) 974-2065.

If you do not request the conference within that time, your right to a Skelly Conference will have been waived, and the recommended discipline may be imposed.

Your Skelly rights are:

1. To receive a written "Notice of Intent" to discipline, which may be served upon you either in person or by mail. That notice will include the level of proposed discipline, the charges, and a brief explanation of the reason for the discipline.
2. To receive a copy of the materials upon which the proposed discipline is based, including reports, tape recordings, photographs, etc. Any item certified as confidential and withheld from you by the department cannot be used as a basis for discipline.
3. To have sufficient time to review the supporting materials so that your response can be prepared.
4. To respond orally, in writing, or both to the proposed discipline and charges.
5. To a hearing officer who is not in your chain of command.
6. To have a representative or attorney present at the hearing.
7. To receive copies of all materials prepared as a result of the Skelly Conference.
8. To receive a new Skelly Conference for any new charges or increased discipline, which arise from the Skelly Conference.

I have read and understand my Skelly rights.


Steven Spoelstra

 08.23.07
Witness Date



From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

ORDER NOT TO DISCLOSE MATERIALS

Pursuant to Department Policy, materials are being furnished to you upon which your proposed discipline is based. These materials are reproductions and are a part of the confidential employee personnel records of the San Diego Sheriff's Department. Dissemination of this information is restricted to a need and a right to know.

You are ordered not to disclose, release, or copy these materials to or for anyone, other than your attorney and/or association representative, without the written authorization of the Internal Affairs Lieutenant. Materials include all written documentation, tape recordings, and videotapes.

Any unauthorized release of information contained in these documents compromises the confidentiality of your personnel file, and may impede the Department's ability to protect your confidentiality in future discovery motions. This could subject you and the County to unnecessary liability and criticism, to which the Department may be required to defend in a public forum.

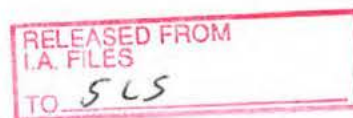
You are strongly encouraged to destroy or return these materials when they no longer serve a useful purpose. Should you desire to review material related to your discipline at a later time, you may make arrangements with the Internal Affairs Unit.

Failure to abide by this order could result in a charge of insubordination, and subject you to disciplinary action up to and including termination.

I have received a copy of this order.


Steven Spoelstra

I.A. Case # 2007-042.1





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 31, 2007

TO: William B. Kolender, Sheriff

FROM: Sean P. Gerrity, Lieutenant
Valley Center/Pauma Sheriff's Substation

VIA: Chain of Command

INTERNAL AFFAIRS CASE #2007-042.1, RE: DEPUTY STEVEN SPOELSTRA #1772

RECOMMENDATION

I reviewed the Internal Affairs investigation, prepared by Sergeant Larry Kusler, and conducted a Pre-Disciplinary Conference with Deputy Steven Spoelstra and his legal representative, Attorney Donovan Jacobs. Considering the totality of the evidence, I recommend Deputy Steven Spoelstra be terminated from employment with the San Diego Sheriff's Department.

RATIONALE

This investigation essentially revolves around two versions of an arrest report written by Deputy Spoelstra about the same arrest incident, wherein he arrested and booked [REDACTED] charging him with California Penal Code section 647(f), "Drunk in Public." The arrest occurred during pre-dawn hours on Saturday, January 20, 2007. Deputy Spoelstra, a training officer and a corporal, apparently signed and turned in the first report for administrative processing on or about Sunday, January 21, 2007. The report was never approved by a sergeant, as Deputy Ryan, who was at the scene of the arrest, intercepted the report because what was written was not the truth, based upon what he saw at the scene. Among other untruthful aspects of the report, Deputy Spoelstra arrested [REDACTED] inside of his home, not outside as the report indicated – [REDACTED], though drunk, was never in a public place, per Deputy Ryan.

Deputy Ryan discussed the issue with Deputy Jason Ballard, giving him the report. Deputy Ballard is also a training officer and a corporal. Deputy Ballard made and kept a copy of the report, and confronted Deputy Spoelstra with the alleged false report. Deputy Spoelstra subsequently wrote a second version, which was approved by a sergeant on or about Tuesday, January 23, 2007. This report was administratively processed into departmental records. Among other things, Deputy Spoelstra removed or changed portions of the initial report, most notably the apparently false portion essentially revolving around [REDACTED] being outside of his



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home when Deputy Spoelstra arrested him. Deputy Ballard kept a copy of the first version, which I later obtained in early March, 2007.

After I obtained a "records copy" of the second version and compared them, it appeared that Deputy Spoelstra's first version was actually untruthful, apparently a report consisting of false facts in order to justify a "drunk in public" charge, and thus an apparently unlawful arrest. This investigation, through Internal Affairs, was initiated as a result.

The second version lacks any facts showing [REDACTED], an adult, was outside of his home while in Deputy Spoelstra's presence, or the presence of any other deputy on scene, although Deputy Spoelstra arrested him for "drunk in public" without having the "public place" element of the offense occur in his presence as required by State law. Wherein the first version essentially states [REDACTED] was contacted and arrested outside of his home in a "public place," the second version has a contrary fact scenario, where [REDACTED] was contacted and arrested inside of his bedroom, not in a "public place." However, the second report version at least indicates [REDACTED] was outside of his home in the presence of at least one witness, apparently at some point before the deputies arrived (but this now also appears to be untrue; witness statements and radio call facts, as written in both reports, are apparently also false). Both report copies, which I initialed and dated on March 6, 2007, are included in Part "A" of the Internal Affairs investigation.

On July 19, 2007, at about 0940 hours, I met with Deputy Steven Spoelstra and his attorney, Donovan Jacobs, at the Valley Center Sheriff's Substation, to conduct a pre-disciplinary conference (Note: This conference had been delayed from June; Deputy Spoelstra just recently returned from about a month-long vacation). They were afforded an opportunity to read the investigation in privacy and did so. At about 1250 hours, once they completed their review of the investigation, we proceeded with the conference. I digitally recorded the conference. A copy of this recording is included with this report.

Deputy Spoelstra essentially said he believed that there were discrepancies with the "report" (i.e., the Internal Affairs investigation). Deputy Spoelstra said he does not believe some witness recollections are accurate. When I asked who, Spoelstra said there were discrepancies with Witness [REDACTED] statement, "...the person I contacted outside who says now he was never outside, he was inside with, ah, he woke up [REDACTED] and wishes that he did not wake up [REDACTED] who was in bed; because I contacted him outside when I drove up."

Deputy Spoelstra also said, "There's discrepancies with, ah, [REDACTED]. She believes, she says that, ah, she was not at the scene until deputies were inside the house taking him [REDACTED] out and I believe it was her at the front porch who told me the child was inside. I could be mistaken, it could have been the sister [REDACTED] of [REDACTED], who was at the location; they have the same names, but, ah, I believe it was the grandmother [REDACTED]. She lives on [REDACTED] and was coming from there. We were coming from the station. I believe she got there before we did. I had contacted her earlier, ah, that day. At the time she recognized who I was. I allowed the child to stay with her. I balled her out because I told her

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that, ah, I allowed the child to stay with her earlier on the condition she would notify us if [REDACTED] caused problems. Ah, she was not at the scene, ah, with the child, ah, when she called."

Deputy Spoelstra continued, "Ah, let's see, ah, in the report it talks about a [REDACTED], that would be the mother of, ah, ah, [REDACTED] and [REDACTED]. She says she had the child, the child was not there. But there was a child there. I left the child there earlier, and, ah, that was the, one of the main reasons why I went into the house, after I contacted, ah, [REDACTED] in the front yard."

Mr. Jacobs and Deputy Spoelstra pointed out the presence of the child is a significant issue, insofar as these witnesses said the child was not there, where Deputy Spoelstra as well as Deputy Albert noted the child was there. Mr. Jacobs said their private investigator also interviewed these witnesses, and the witnesses essentially changed their recollection as to whether the child was there. Mr. Jacobs said he believes it is established that the child was there, thus if these witnesses are mistaken as to something as significant as the presence of the child, then they are mistaken regarding other recollected facts.

Mr. Jacobs pointed out that one of the primary issues revolves around where [REDACTED] was when Deputy Spoelstra drove up. Mr. Jacobs said that Deputy Spoelstra, whose "reputation and word" has not been questioned until this incident, said he did see someone he believed to be [REDACTED] going into the house when he drove up. Mr. Jacobs said there were two witnesses of significance relating to this. One was Deputy Ryan, who was [driving up] behind Deputy Spoelstra, not having the same view as Deputy Spoelstra, and Deputy Ryan was not familiar with those at the residence like Deputy Spoelstra was. Deputy Ryan could have easily missed seeing the person going into the house.

The second significant witness, [REDACTED], claimed in the Internal Affairs interview that he was in the house, and he was never outside in front of the house with [REDACTED]. [REDACTED] later told Mr. Jacobs' investigator that [REDACTED] told him that [REDACTED] had become loud and drunk and was outside the residence, "indicating that [REDACTED] was also outside the residence." This was something [REDACTED] did not convey to the Internal Affairs investigator, but had conveyed to Mr. Jacob's investigator. [REDACTED] went to [REDACTED] house and "probably met up with [REDACTED] outside the house."

When I asked, Mr. Jacobs said [REDACTED] did not tell his investigator that he met [REDACTED] outside. Mr. Jacobs, apparently reading from his investigator's report, said the complete statement [written in report] was, "On the morning of January twentieth, between three and four A.M., [REDACTED] was awakened by his mother, [REDACTED], who told him to go over to [REDACTED] house because, ah, [REDACTED] was drunk and he was loud outside of his house." Mr. Jacob's pointed out that if one reads through the investigation, "it's almost like the entire, um, [REDACTED] um, [REDACTED] clan is putting everything inside the house, for whatever reason. Um, but here, he's telling us that, no, there was a disturbance outside the house, and that... [REDACTED] would you please go over there and, and take care of it.' And so he then he goes over

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there, and the presumption would be is that [REDACTED] is outside making a disturbance, [REDACTED] contacts him just as, ah, Deputy Spoelstra is driving up. So, I mean it's a, um, serious, um, error or mistake on, on [REDACTED] part but, you know, he contradicts himself with our investigator."

Mr. Jacobs also pointed out, regarding the "implication" of the Internal Affairs report that Deputy Spoelstra was trying to hide, conceal or downplay the fact he made this drunk-in-public arrest. In an additional interview of [REDACTED], Jacobs' investigator wrote, "The sheriff's deputy provided [REDACTED], [REDACTED] mother, with his business card and informed his mother that [REDACTED] was being arrested for drunk in public, and told her where [REDACTED] was being taken." (Note: In the Internal Affairs recorded interview, [REDACTED] essentially said this, but more in the context of seeing this and hearing a deputy tell this to [REDACTED]; it is also in his written statement in the report). According to Mr. Jacobs, [REDACTED] told this to witness [REDACTED]. Mr. Jacobs said that there was no indication in the Internal Affairs report "whatsoever" that [REDACTED] had been given a business card and had been specifically told what [REDACTED] had been arrested for, "...implying that, when it's left out of something like that, it implies that there's an attempt to conceal this, so that he [Spoelstra] was doing something nefarious by doing this arrest in private when, in fact, that morning, at the very moment of the arrest, he's [Spoelstra] identified himself with a business card, ah, and telling the lady exactly what the, the son, the grandson was being arrested for." Mr. Jacobs noted that [REDACTED] did not "indicate that at all" to the Internal Affairs investigator. Mr. Jacobs' (and Deputy Spoelstra) also pointed out that [REDACTED] essentially said, in the Internal Affairs report, that deputies had been "out there" so many times before, that she "easily" gets the incidents confused (Note: See the May 17, 2007, IA re-interview of [REDACTED] on page 52 of the investigation, where she essentially states she could have confused some facts with other incidents, but essentially reiterates she did not arrive until [REDACTED] was already being removed or had been removed from the home, and she did not recall seeing the child in the home though it was possible the child was there. The incident occurred about four months earlier, on January 20, 2007.)

Mr. Jacobs said that the important part about this is that "...we know the day before, Steve [Deputy Spoelstra] was already out there; we know, previous to that, deputies had been out there; we know at least two or three other times after this incident, ah, deputies had been out there, so these witnesses, whether it's [REDACTED] or [REDACTED], are getting these things jumbled in their head about how things happened. And, so, the important questions is, is, was [REDACTED] out front when Deputy Spoelstra drove up, and, ah, basically you can't rely on their recollection as, as to that, because they've had so many of these incidents they're getting them confused. But you could rely on Steve's [Deputy Spoelstra's] because, you know, like I said, eighteen years with unquestioned credibility, um, and he was in a position to see, ah, what he said he saw, and then you've got, um, [REDACTED] admitting, contradicting himself earlier that, ah, that he was told the incident was occurring outside."

Deputy Spoelstra brought up the issue mentioned in the investigation, relating to his not listing either Deputies Albert or Ryan in the [first] report he wrote. He said, "No forced was used and it was a - I hate to word, use the word simple, now, because its grown into a monster - but, ah, at

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the time I wrote it, I wrote it as a 647f and I didn't put, ah, Ryan or Albert in because neither one used force. I didn't use force. I didn't believe it was going to go to a DA [District Attorney]."

Deputy Spoelstra added, "At the time I, this incident happened, I was back several reports. Ah, those reports were completed and, ah, this one I took off the CAD [Computer Aided Dispatch system], and, ah, a few notes that were in my notebook, and, I was going on my best recollection. And, thinking back further, one, once it was brought to my attention, ah, I again put [the] best of my recollection, because, yeah, that, then I, yeah, it was inside and what exactly happened. But, ah, and so I went and talked to Sergeant Wells. I did not put in the report that I saw him [REDACTED] go into the house. I remember telling Sergeant Wells that, yes, I did see him go into the house. He [Sergeant Wells] asked me if it was a good arrest, I said it was. And, ah, ah, twenty-twenty hindsight I should have much more time detailing everything that happened, but..."

Mr. Jacobs pointed out that Internal Affairs investigators did not make a direct point of asking Sergeant Wells (interviewed on March 28, 2007) if Deputy Spoelstra told him about seeing [REDACTED] going into the house (Note: Sergeant Wells, in his statement, does not recall Deputy Spoelstra speaking to him about the incident; based on the copy of Deputy Spoelstra's second report, Sergeant Wells approved it on Tuesday, January 23, 2007). Mr. Jacobs essentially said that although Sergeant Wells did not recall speaking with Deputy Spoelstra, he should have been pointedly asked whether Deputy Spoelstra said anything about seeing [REDACTED] going into the house, since it is "an important point in this case."

Mr. Jacobs said, "...and they use the term 'falsified' in the report, in there [the Internal Affairs investigation] and then they start listing a litany of mistakes that are in the report [one or both of Deputy Spoelstra's reports]. A mistake doesn't necessarily mean it's falsified. I mean, they're talking about the wrong year on the date, ah, wrong digit on a phone number, ah, I can't, you know, I don't see anybody concluding that that was some sort of intentional falsification. So, just because somebody makes a mistake in a report doesn't mean it's a falsified report."

Deputy Spoelstra added, "It also shows how tired I was when I wrote this report." Deputy Spoelstra said, "I wrote the initial report about four o'clock in the morning. I handed it in, and was notified. Ah, now this was on the Monday, not of the incident, the next Monday, I wrote it - I worked, ah, that Sunday morning, ah, from midnight to, ah, six in the morning, and I wrote in, at that time, I believe I also wrote another report at that time, and this was the second one. Ah, I was notified by Ballard about eight-thirty, nine o'clock in the morning, and at that time I came right in [and wrote the second report]...on that same Monday."

Deputy Spoelstra mentioned that Sergeant Wells said he did not see the initial report, as only Deputy Spoelstra, Deputy Ryan and Deputy Ballard had seen it. Sergeant Wells saw the second report, when Deputy Spoelstra gave it to him. This was not, however, when Sergeant Wells asked him if it was a "good arrest." Deputy Spoelstra explained, "I came in here [the station conference room] while they were doing detective briefing and I told Wells, hey, I have, there's a problem with this report, and so I'm going to correct it, and I'll tell you what happened. And he said, 'Okay, just wait a second.' They concluded, we walked to his office, ah, I told him what

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had happened, that I saw him [REDACTED] go into the house, and that I arrested him. And, I told him, no, I did not list Albert or Ryan in the report, ah, that they were there – but they were there – and, ah, that I'm changing to show that Ryan was, in fact, there, because Ryan's the one who brought it to Ballard's attention, who brought it to my attention. So I added his name in there. And, ah, at that point he [Sergeant Wells] said, 'Well, it's, ah, it's a 647f arrest, it's going to stay in house, it's not going to go to a DA, so just finish it briefly and ah, I'll sign off on it.'"

I asked Spoelstra, "So in the second report you didn't put in the part about seeing him [REDACTED] outside first, correct?" Deputy Spoelstra responded, "Neither report." I said, "And you didn't put it in either report, or at least the second report, because?" Deputy Spoelstra replied, "I told him [Sergeant Wells] what I did; and he..." I said, "But you didn't put it in the report?" Deputy Spoelstra said, "No, I didn't." I asked, "And any particular reason why that wasn't in the second report?" Deputy Spoelstra said, "Well, I was finished when I talked to him and I just I just handed it to him." I asked Deputy Spoelstra if Sergeant Wells read the report at that point in time. Deputy Spoelstra said, "No. I didn't see him read it." I asked Deputy Spoelstra if he had indicated to Sergeant Wells, at that time, the fact that [REDACTED] had gone into the house from the outside was not in the report. Deputy Spoelstra said, "No." I said, "But you indicated you told him [Sergeant Wells] that [REDACTED] had gone into the house from the outside?" Deputy Spoelstra answered, "Yes."

With Deputy Spoelstra and Mr. Jacobs having nothing further to add, I concluded the pre-disciplinary conference at about 1:12 PM. During the interview, I had asked Mr. Jacob's if he wished to provide me with a copy of his investigator's report for consideration. He said he would like to discuss it with Deputy Spoelstra first, which they apparently did after the conference. Mr. Jacobs, after the conference, told me he that they decided to not provide a copy for my consideration, apparently relating to attorney-client confidentiality issues.

As to the presence of [REDACTED], [REDACTED], at the scene when Deputies Spoelstra and Ryan first arrived (before the arrest of [REDACTED]), the evidence indicates that this is more likely true, even though [REDACTED] and her son, [REDACTED], said or believed in interviews months after the incident that she arrived after [REDACTED] was in custody. Both witnesses, in their interviews, mentioned some degree of vagueness in their recollections, with [REDACTED] even saying, in one taped interview, "...my memory isn't so good..." In a second telephone interview, she even concedes that her three year old great-grandchild may have been present in the house at the time, but she did not recall seeing him, although she earlier said he was not there.

Her presence before the arrest is corroborated by Deputy Ryan's description when Deputy Spoelstra and he initially contacted her at the door (although he described her as younger and presumed she was [REDACTED] mother instead of his grandmother), and his statement that he closed [REDACTED] bedroom door while he and Deputy Spoelstra contacted [REDACTED] in [REDACTED] bedroom – his recollection was that apparently [REDACTED] and [REDACTED] were talking to [REDACTED] while the deputies were contacting him in the room; the fact that when she called the communications center, she said she would be going to the scene and

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arriving in about five minutes; and her granddaughter [REDACTED] statement that, while she was in her bedroom with the door closed, she could hear her grandmother talking to [REDACTED] whom she believed was still in his bedroom.

The presence of the child at that time is also unclear, but there is corroboration this was so insofar as Deputy Randy Albert recalls seeing a child sleeping, [REDACTED] concedes in a later interview it was possible the child was there but she didn't notice, and in a later conversation with Deputy Ryan, when Deputy Spoelstra talked to him about what to do about the first version of the arrest report, Deputy Spoelstra mentioned "273a" as a possible charge or scenario. "273a" is a section of the California Penal Code that essentially refers to child endangerment, and Deputy Spoelstra had contacted the Indian Health Center after the arrest, apparently out of concern for [REDACTED] children. Also, the afternoon before the arrest, Deputy Spoelstra apparently left the older of two children at the home, while driving the mother and younger child to the Las Coyotes Indian Reservation. Although Mr. Jacobs points out the issue of the child's presence is significant regarding the reliability of witness statements as to other facts, it does not dispose of such other statements as unreliable in their entirety. Many of these statements, considered together in their entirety and obtained months after the incident when memories are usually more clouded for many people, clearly corroborate each other as to substantive issues involving this investigation, including those statements of Deputy Ryan.

I also agree with Mr. Jacobs that such typical human-error issues as writing the wrong year for a date, or typing in a wrong digit in a telephone number, do not amount to falsification of a report. These are not substantive in this regard, and although listed as discrepancies in the Internal Affairs investigation, these are not the basis for the false arrest and false report allegations.

In the "Origin" section of both reports, Deputy Spoelstra wrote, in part, "Enroute I was told two cousins were fighting in the front yard of the house. One cousin, [REDACTED], was drunk." In his interview with Internal Affairs, he described the call as being dispatched that way as well. When shown the Computer Aided Dispatch printout, lacking any information of this sort, he essentially said he did not know where that information came from, but indicated that he obtained that same information from [REDACTED] later, indicating this may explain it. (I listened to the tape of the radio broadcasts; no such information was ever broadcast). However, [REDACTED] denies ever fighting with [REDACTED], and said he never contacted him outside. He said he came to the home, entered, asked [REDACTED] where [REDACTED] was, she told him [REDACTED] was in his room, he found [REDACTED] in his bedroom almost passed out, woke [REDACTED] and spoke with him. They did not argue and [REDACTED] never attempted to strike him. [REDACTED] never left the room until taken out by deputies.

[REDACTED], [REDACTED] sister, corroborates this. She had called her grandmother, [REDACTED]. She was in her room when [REDACTED] came over shortly afterward. [REDACTED] knocked on her bedroom door before it was opened. He asked her where [REDACTED] was. She said he was in his room. She closed her door, and heard the door to [REDACTED] room close after [REDACTED] went into it. She stayed in her room with the door closed, did not hear any yelling or sound coming from the room, and recalls later hearing her grandmother [REDACTED], in the living

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room area near her door, talking to [REDACTED] who she believed was still in his bedroom. [REDACTED] said she stayed inside her room with the door closed, and never saw deputies or the arrest of [REDACTED]. Of note, Deputy Ryan mentioned in his interview that while he and Deputy Spoelstra were in [REDACTED] room contacting him, he closed the bedroom door because the relatives were talking (or yelling) to [REDACTED] while he and Deputy Spoelstra were trying to deal with and calm him; [REDACTED] was angry at that time. It is reasonably possible this is when [REDACTED] heard her grandmother outside of her bedroom door, although unaware that deputies were present in [REDACTED] room. Also, though it appears odd that [REDACTED] would remain in her room through the whole incident, it appears this was, in fact, true. As a result of the Internal affairs interviews, it appears Deputies Spoelstra, Ryan and Albert apparently were not actually aware she was in the house at the time of the incident, especially if the woman they dealt with was, in fact, [REDACTED] (which appears to be the case).

Further, during her initial Internal Affairs interview months later, [REDACTED], the grandmother, was asked if [REDACTED] told her about [REDACTED] fighting him in the front yard. Listening to the recorded interview, her clearly surprised response was immediately and emphatically, "WHAT?" She had heard not heard such a thing, yet it would seem her son would have shared this with her at the time of the incident or at least some time since then, or she would have actually witnessed this if the fighting was occurring outside when Deputy Spoelstra arrived, as stated in his first report. Despite her "problems with memory," and in light of other apparently accurate recollections, it would seem she would recall this significant issue.

In the "Investigation" portion of the first report, Deputy Spoelstra wrote, "I arrived and contacted [REDACTED] and [REDACTED] in the front yard. They were yelling at each other. [REDACTED] was also cussing at other relatives, grandmother [REDACTED], who was standing on the porch...I saw [REDACTED] was walking with a stumbling gait and was slurring his speech. His eyes were bloodshot and his breath smelled of an alcoholic beverage. [REDACTED] was a danger to himself and others...I arrested [REDACTED] for being drunk in public and placed him in the back seat of my patrol vehicle. No force was used...I contacted [REDACTED] and [REDACTED] and took their statements..."

During his interview, Deputy Spoelstra essentially and openly admitted that this first version was untrue, and he changed it after he was confronted about it. He made statements such as he "...remembered more of the incident after it was brought to [his] attention, and [he] put more into it."

Deputy Ryan, who arrived together with Spoelstra, said this did not happen. Nobody was outside when they arrived, both he and Deputy Spoelstra approached and met [REDACTED] and apparently [REDACTED] at the front door (the "front yard" is just outside of this door), and they both went into the house and into [REDACTED] room, finding him on the bed. This is consistent with [REDACTED] statement as well; this bed is where [REDACTED] first contacted [REDACTED], essentially saying [REDACTED] never left the room to that point.

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In his second report, Deputy Spoelstra changed the above language in the "Investigation" section, writing instead, "I arrived with Deputy Ryan (4943) and contacted [REDACTED] and [REDACTED] in the front yard. I heard [REDACTED] yelling inside the house. [REDACTED] told me [REDACTED] child was in the house. I entered and saw [REDACTED] in the back bedroom. Broken glass was on the floor and [REDACTED] was cussing and threatening [REDACTED] and [REDACTED]...In the living room of the house [REDACTED] three year old son, [REDACTED] was sleeping on a mat...I saw [REDACTED] was walking with a stumbling gait and was slurring his speech. His eyes were bloodshot and his breath smelled of an alcoholic beverage. [REDACTED] was a danger to himself, and his family...I arrested [REDACTED] for being drunk in public and placed him in the back seat of my patrol vehicle. [REDACTED] made the spontaneous statement, "My woman and daughter have left me and I am hurting, I needed to drink vodka." No force was used in the arrest... I again contacted [REDACTED] and [REDACTED] and took their statements..."

This is at least closer in line with Deputy Ryan's statement, insofar as Deputy Ryan essentially said he and Deputy Spoelstra approached the front door together and met apparently [REDACTED] and [REDACTED] at the front door (stepping out the front door, one could say one is in the "front yard," based on the property layout, perhaps even if standing on the "porch"), and they entered [REDACTED] bedroom and contacted him there. Deputy Spoelstra, as written above, wrote, "...I saw [REDACTED] was walking with a stumbling gait and was slurring his speech. His eyes were bloodshot and his breath smelled of an alcoholic beverage. [REDACTED] was a danger to himself, and his family...I arrested [REDACTED] for being drunk in public..." In his IA interview, he said he contacted [REDACTED] on his bed, and did not observe his walking and stumbling until after he had handcuffed/arrested him and moved him to his car. He said that his inaccurate statement was essentially a generic phrase he used for "drunk in public" reports. The bedroom-to-patrol-vehicle arrest sequence in his interview (but not in his report) essentially matches that described by Deputy Ryan.

However, during his interview with Internal Affairs and also his statement to me, he added some critical events that are in neither report. He said when he drove up, with Deputy Ryan driving up behind him, he saw someone go into the front door, who he believed was [REDACTED]. He said he first spoke to [REDACTED], apparently nearer to his car, apparently outside away from the front door and before Deputy Ryan joined up with him. Mr. Jacobs postulated that Deputy Ryan, who drove up behind Deputy Spoelstra, was probably not in a position to see the person entering the home from the outside. It was apparently at this point [REDACTED] mentioned something about a fight, or Deputy Spoelstra discerned a fight had occurred, and when Deputy Spoelstra essentially asked if [REDACTED] had just gone inside, [REDACTED] said he was inside. Deputy Spoelstra essentially maintains this is what happened, he told this to Sergeant Wells at one point when turning in his report, but failed to put it in his report. Sergeant Wells, in his interview months after the report was turned in, had no recollection of speaking with Deputy Spoelstra about this report.

This sequence of events is inconsistent with Deputy Ryan's statement with approaching the front door together and contacting both subjects at the front door (or, even perhaps "front yard" immediately outside of this door). Essentially, this new set of facts, not revealed in either report,

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provides the essential and basic element of "a public place" for the "drunk in public" arrest. Again, however, this does not appear to be corroborated by Deputy Ryan's version of the events, but appears to run counter to his testimony. Further, [REDACTED] said [REDACTED] never left the house, and he never contacted [REDACTED] outside. (In the tape recorded interview, [REDACTED] said he did not know who called the Sheriff's department, although his mother did apparently without his knowledge. He essentially assumed perhaps a neighbor had done so, and postulated that maybe [REDACTED] had gone outside at some point before [REDACTED] got to the house). [REDACTED] also essentially said he was inside the house when the deputies entered and ultimately went to the bedroom where [REDACTED] was; he had just left the bedroom before then, with [REDACTED] still inside the room. As said before, [REDACTED] said [REDACTED] an never fought with or attempted to strike him.

Both [REDACTED]' and [REDACTED] statements, written by Deputy Spoelstra, are the same in both reports. [REDACTED] is as follows:

"...[REDACTED] said after [REDACTED] left the house earlier in the day with the daughter [REDACTED] began to drink beer. He later consumed a bottle of vodka and began throwing clothing and furniture out of the house. [REDACTED] telephoned another nephew, [REDACTED], to come to her house and talk to [REDACTED]. [REDACTED] arrived and attempted to talk with [REDACTED] in the front yard but [REDACTED] became combative and challenged [REDACTED] to fight. [REDACTED] called the Sheriff's Department because she did not want to see [REDACTED] or [REDACTED] get hurt..."

It is clear from the communication center telephone transcripts that this is not a true version of events. [REDACTED] called from her own home on [REDACTED] about five minutes away, after either her daughter or granddaughter called her about [REDACTED]. She came to the home after calling the Sheriff's Department and sending her son, [REDACTED] from her home. Her statement is that [REDACTED] was already in custody when she arrived, though it appears this is not the case. She had no knowledge of any fighting issues with [REDACTED] at all. Other than knowing [REDACTED] was drunk, and was said to drink "hard" liquor, she had no idea what he drank or how much.

[REDACTED] statement in both of Deputy Spoelstra's reports is:

"...[REDACTED] was called to help his aunt, [REDACTED], deal with his cousin [REDACTED]. He arrived and saw that [REDACTED] was stumbling drunk. He tried to talk [REDACTED] into the house to sleep it off but [REDACTED] refused.. [REDACTED] began to cuss at [REDACTED] and challenged [REDACTED] to fight. [REDACTED] said [REDACTED] attempted to punch him but was to[o] drunk to connect..."

Also already noted, [REDACTED] essentially denies this is true, insofar that he found [REDACTED] inside, in his bed, aroused him and spoke with him, and no violent-oriented events occurred in his presence. [REDACTED] and [REDACTED]' statements show that he was awakened by his mother at her house, and sent to [REDACTED] house.

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In both the Internal Affairs interview and with me, Deputy Spoelstra indicated he was apparently exhausted when he wrote the first report at least one, if not two days later, relying on his notes and the Computer Aided Dispatch (CAD) entries to help him. Aside from the not seeing anything in the CAD incident relating to the call being dispatched supporting, "Enroute I was told two cousins were fighting in the front yard of the house. One cousin, [REDACTED], was drunk," this does not explain what he wrote on the Declaration and Determination for Probable Cause form (attachment "N") that is turned in to the jail with the prisoner, as follows: "...contacted suspect, [REDACTED], fighting with family in front of house. [REDACTED] drank bottle of Vodka..." This form, with this particular statement, which is typically given to a judge to make a probable cause determination, is not truthful.

However, in my opinion is most disconcerting, is that Deputy Spoelstra essentially told IA investigators and me that he did not list Deputies Ryan or Albert in his initial report, since no force was used. Whether or not it is a standard practice to do so otherwise, it seems that when another deputy (Ryan) actively is involved with taking a person into custody and escorting him to a vehicle, one would at least mention this. However, what is truly most disconcerting is the following statement from Deputy Ryan, written in the Internal Affairs investigation:

"Spoelstra contacted Ryan approximately a day or two after Ballard had talked to him about fixing the report. They went into the break room and Spoelstra inquired what he should do. Ryan responded, *'I don't know what you need to do. I just know this isn't what happened and if somebody asks me about this report, whether it be the courts or whatever, you know, I can't say that this is what happened. This is not what happened there, Steven.'*" Spoelstra responded, *"Well I know, that's why you're not in it."* [Emphasis added.]

This is also in Deputy Ryan's recorded interview. This statement carries the significant implication that Deputy Spoelstra knew his report was false when he wrote it, intentionally excluding other deputies, who were present, from the report. It also is an indicator that Deputy Spoelstra continued to be dishonest with not only Internal Affairs investigators, but also with me.

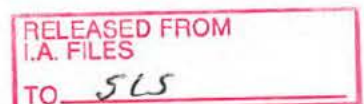
All considered, I conclude that it has been proven, beyond a preponderance of the evidence, if not more clearly and convincingly, that Deputy Spoelstra intentionally, knowingly and dishonestly wrote and submitted false reports, and knowingly and wrongfully arrested and booked [REDACTED] in jail for the crime of "Drunk in Public."

As a result, I agree with Sergeant Kusler's findings, including those revolving around truthfulness, regarding all San Diego Sheriff's Department rule violations alleged against Deputy Spoelstra.

Respectfully submitted,



Sean P. Gerrity, Lieutenant
Valley Center/Pauma Sheriff's Substation



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Don Crist

Don Crist, Captain
San Marcos Sheriff's Station

8-3-07

Date

☒ Approve

☐ Disapprove

Comments: FORWARDED.

Kim Quaco

Kim Quaco, Commander
Law Enforcement Services Bureau – Area 1

12-7-07

Date

☒ Approve

☐ Disapprove

Comments: _____

Earl Wentworth

Earl Wentworth, Assistant Sheriff
Law Enforcement Services Bureau

12/13/07

Date

☒ Approve

☐ Disapprove

Comments: _____

RELEASED FROM
I.A. FILES
TO 565

William D. Gore, Undersheriff

____ Approve ____ Disapprove

Date _____

Comments: _____

William B. Kolender, Sheriff

____ Approve ____ Disapprove

Date _____

Comments _____

RELEASED FROM
I.A. FILES
TO: 565